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Articulation Of Regional Community Interest Through DPD RI

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Abstract

This paper examined the articulation of the interests of regional community through the authority of members of the Regional Representative Council (DPD) to see the extent of the functions and authorities of people representative officials in realizing the public interest of the regional people. This paper utilized conceptual approach and statutory approach to the law because of its normative type in nature. Therefore, the required data were in form of articles of the law regulating the authority of members of the Regional Representatives Council (DPD) as well as the interests of the society in the region. In addition, data from bibliography were also collected, such as results of scientific studies relevant to the object of study in the present study to compare theories leading to meet conclusions to be drawn. The results show that the articulation of the interests of regional community within the scope of the authority of the DPD is still very limited because it is at the theoretical level, instead of practical. The DPD should have taken strategic steps in helping to succeed the interests of the regional community of developemnts.

Keywords: Articulation; Interest; Regional Community

I. INTRODUCTION

Historical heritage generates not only cultural, but also social and economic potential of regional development, which is capitalized by unique labor skills, the results of the territorial division of labor and activity of sectors of the economic base of a region. Its influence can be traced in the analysis of all major aspects of regional enterprises and in many ways provides the parameters of its stability and economic stability (Panasyuk, Pudovik, Malganova, & Butov, 2015). Implicit within the description of meta-governance by these scholars is the notion of the state constructing, defining and managing the conditions under which governance takes place (Wilson, Morrison, & Everingham, 2017).

Such a plan combines urban planning, living patterns, energy conservation, renewable energy use, transportation planning, and waste management activities at the local level, including and integrating assessment of the environmental, economic, and social impacts of such measures (Mu, Liang, Lu, & Huang, 2018). Transportation planning is a component of spatial planning so it is hypothesized there must be a literature on decision support tools and techniques that can readily be applied to the recovery of communities devastated by natural disasters, such as earthquakes, floods, typhoons and tsunamis (Nakanishi, Matsuo, & Black, 2013).

Recently, with the extensive application of complex network theory, there has been rapid development of research focused on industrial network structures and resources consumption. Industrial networks are complex socio-economic systems composed of industries and the relationships among those industries that exist through various carriers, including materials, energy, information, technology, and capital (He et al., 2017). Externalities are typically not reflected in economic transactions, they do however, have a direct impact on people's welfare and community sustainability, and thus on economic

value (Phelan, Dawes, Costanza, & Kubiszewski, 2017).

Articulation of the interests of regional community is a obligation constitutionally of the Regional Representative Council as a representative of the people in an area which is constitutionally regulated under Article 22D Paragraph (2) in the 1945 Constitution of the Republic of Indonesia Year 1945 which reads: "DPD participates in discussing RUU related to regional autonomy, central and regional relation, regional formation, regional division and regional merging, management of natural resources and other economic resources, as well as the balance of central and regional finances, and giving consideration to the House of Representatives on the Bill on State Budget and Draft Law on taxes, education and religion.

Based on the constitutional mandate, the authority of DPD is very limited. With such limited authority, DPD should take a strategic step so that its image is not underestimated by the people. One of the strategies to channel the aspirations of the people in the region is with the involvement of the DPD in Deliberation of Development Planning (Musrenbang). This is the scope of duties of Committee II as intended to be implemented with regard to regional and community affairs, namely: agriculture and farming, transportation, marine and fishery, energy and mineral resources, forestry and the environment, empowerment of people's economy and disadvantaged areas, industry and trade, investment, and public works.

Based on the description of the scope of duties of Committee II DPD RI, the fundamental question would be, "Is the DPD is involved in filling the missing link in the position of the regional people's aspiration in the context of development deliberation (musrenbang)?" In reality, development is not directed since the programs released from the central government and from the House of Representatives (DPR) are not in line with the expectation of the people in the regions. In fact, the community has made regional development planning through Musrenbang.

Indeed, Institutionalization of Musrenbang is a foundation in the development planning system. The forum starts from the village level to the national level based on the mandate of Law Number 25 Year 2004 on National Development Planning System (SPPN). The basis of a quo norm relating to development deliberations has expressively stipulated that all layers of society are involved in national development planning through the Musrenbang forum. Indeed, if there is a desire for a development directed and in accordance with the expectations of society, the provisions in Musrenbang should be implemented correctly.

Since the reformation period that began in 1998, development in the country of Indonesia looks unfocused. What the local people want is not in accordance with what has been implemented by the central government. As a result, many projects or programs from the central government for the regions are stalled or intangible to be utilized. When prudently reviewed, the principle of the National Development Planning System aims to: a) support coordination among development actors; b) ensure the creation of integration, synchronization and synergy both in the Region, inter-space, inter-governmental, inter-governmental functions between Central and Regional; c) guarantee the linkage and consistency between planning, budgeting, implementation and oversight; d) optimize community participation; and e) insure the efficient, effective, equitable and sustainable use of resources. On the other hand, the DPD was not involved in the Musrenbang forum.

It seems to be true to claim that in order to break the link in the imbalance of national and regional development, the fait accompli of DPD RI as the representative of the regional people must be involved to channel the aspirations of the regional people in the context of development, while optimizing the DPD's limited authority. In addition, the condition also affirms and realizes the involvement of the DPD of the Republic of Indonesia (RI) in Musrenbang as in conveying the proposal of regional development at the national level, namely to the Parliament and related governments to address the unequal development in the region in accordance with the aspirations of the regional people. For example, spatially, economic growth in the third Quarter of Indonesia in 2017 is still dominated by the islands of Java, Sumatra and Kalimantan which contribute 88 percent of the national Gross Domestic Product (GDP) structure. In Q3 of 2017, Sulawesi Island recorded the highest growth of 6.7 % (YoY), followed by Java by 5.5 %,

Kalimantan 4.7 %, Sumatera Island 4.2 %, Maluku and Papua at 4.2 %, and Bali and Nusa Tenggara at 3.7 %¹.

The three provinces contributing to the largest economic sector in Java are DKI Jakarta, East Java and West Java. In the second quarter of 2017, the economy of Jakarta Capital City increased by 6.0% (YoY). The growth is relatively unchanged from the second quarter of 2016, but lower than the previous quarter which was only 6.4% (YoY). The slower growth affected Java's overall growth. The contribution of Java to the national economy in the second quarter was 17.4%, unchanged from the previous quarter, but increased from the second quarter of 2016 which amounted to 17.2%². Meanwhile, on the unemployment rate, the number of unemployed in August 2017 reached 7.04 million people or up 10 thousand inhabitants compared to August 2016 which reached 7.03 million people³. In fact, the funds transferred to the regions and the Village Budget in 2018 increased by 766.2 trillion⁴.

Based on the fact of the inequality of economic development which still has a gap between the Indonesian part of Java and the eastern part of the a quo, it is time for the Regional Representative Council (DPD) to attend and take part in Musrenbang. This is the DPD movement as a form of articulation of the interests of the people in the region and the duty and obligation of DPD in casu, Committee II, which has the scope of tasks on natural resources management and other economic resources management to fight for the economic interests of the regional people as a consequence of being representation of the people in the region so that economic development in the region will occur equally and responsively.

II. METHOD

This paper utilized conceptual approach and statutory approach to the law because of its normative type in nature. Therefore, the required data were in form of articles of the law regulating the authority of members of the Regional Representatives Council (DPD) as well as the interests of the society in the region. In addition, data from bibliography were also collected, such as results of scientific studies relevant to the object of study in the present study to compare theories leading to meet conclusions to be drawn. The data of this research are analyzed descriptively that the data in the form of articles of law governing authority of DPD as one of channeling entity aspiration of society in development area in area, formally explained, tangible in the form of qualitative data, not statistic.

III. DISCUSSION

DPD as an Asymmetric Decentralization and Regional Economic Development Aggregation

Asymmetric decentralization at the regional level is practiced in countries such as Belgium, Canada, India and Malaysia. Asymmetric decentralization at the local level is more prominent in practice (de-facto), although the policy may not be specifically set forth in law (de-jure) (Shah & Thompson, 2002).

Asymmetric Decentralization Experience in China

Under the Chinese Constitution as a result of the 1982 Constitution Amendment in 2004, the positivization associated with asymmetric decentralization governed by Article 116 specifies the following provisions.

People's congresses of national autonomous areas have the power to enact autonomy regulations and specific regulations in the light of the political, economic and cultural characteristics of the nationality or nationalities in the areas concerned. The autonomy regulations and specific regulations of autonomous regions shall be submitted to the Standing Committee of the National People's Congress for approval before they go into effect. Those of autonomous prefectures and counties shall be submitted to the standing committees of the people's congresses of provinces or autonomous regions for approval before they go into effect, and they shall be reported to the Standing Committee of the National People's

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1. Economic Progress Report in October 2017 by Ministry of Finance, p. 8
 2. Ministry of PPN/BAPPENAS, Indonesia Economic Development and World Quarter II Year 2017, Edition Vol. 1. No. 2, August 2017, p. 47
 3. Economic Progress Report October 2017, Ministry of Finance. P. 8
 4. Information on APBN 2018, Stabilization of fiscal management to accelerate economic growth with justice, Directorate General of Budget-MoF. Page 24.

Congress for the record.

Meanwhile, the management of revenue sources and economic development in autonomous regions is regulated according to Article 118, the details are as follows:

The organs of self-government of the national autonomous areas independently arrange for and administer local economic development under the guidance of state plans. In developing natural resources and building enterprises in the national autonomous areas, the state shall give due consideration to the interests of those areas.

In autonomous regions, in the areas of education, culture, health, and cultural heritage, special powers are granted in accordance with Article 119, namely:

The organs of self-government of the national autonomous areas independently administer educational, scientific, cultural, public health and physical culture affairs in their respective areas, sort out and protect the cultural legacy of the nationalities and work for the development and prosperity of their cultures

In the development of underdeveloped regions, the central government in China provides grants to autonomous regions aimed at accelerating the economic and cultural development of autonomous regions based on the norms regulated by Article 122, namely:

The state gives financial, material and technical assistance to the minority nationalities to accelerate their economic and cultural development. The state helps the national autonomous areas train large numbers of cadres at different levels and specialized personnel and skilled workers of different professions and trades from among the nationality or nationalities in those areas.

Asymmetric Decentralization Experience in Italy

The arrangements and practical experience of asymmetric decentralization in Italy (bicameral parliament) are constitutionally governed by the Title V of the Regions, Provinces, and Municipalities as set out in Article 116, as follows:

Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-Alto Adige/Südtirol and Valle d'Aosta/Vallée d'Aoste have special forms and conditions of autonomy pursuant to the special statutes adopted by constitutional law. The Trentino-Alto Adige/Südtirol Region is composed of the autonomous provinces of Trent and Bolzano. Additional special forms and conditions of autonomy, related to the areas specified in art. 117, paragraph three and paragraph two, letter l) - limited to the organisational requirements of the Justice of the Peace - and letters n) and s), may be attributed to other Regions by State Law, upon the initiative of the Region concerned, after consultation with the local authorities, in compliance with the principles set forth in art. 119. Said Law is approved by both Houses of Parliament with the absolute majority of their members, on the basis of an agreement between the State and the Region concerned.

The enforcement of asymmetric decentralization in the Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-Alto Adige / Südtirol and Valle d'Aosta / Vallée d'Aoste areas is constitutionally based on the principle set forth in Article 119, as follows:

Article 119:

Municipalities, Provinces, Metropolitan Cities and Regions shall have financial autonomy with respect to revenues and expenditures. Municipalities, Provinces, Metropolitan Cities and Regions shall have independent financial resources. They set and levy taxes and collect revenues of their own, in compliance with the Constitution and according to the principles of co-ordination of State finances and the tax system. They share in the tax revenues related to their respective territories. State legislation shall provide for an equalisation fund, with no allocation constraints, for the territories having lower per-capita taxable capacity.

Revenues raised from the above-mentioned sources shall enable Municipalities, Provinces, Metropolitan Cities and Regions to finance fully the public functions attributed to them. In order to promote economic development, social cohesion and solidarity, to reduce economic and social imbalances, to foster the effective exercise of the rights of the person or to achieve goals other than those pursued in the ordinary exercise of their functions, the State shall allocate supplementary resources and

adopt special measures in favour of specific Municipalities, Provinces, Metropolitan Cities and Regions. Municipalities, Provinces, Metropolitan Cities and Regions have their own assets, which are allocated to them pursuant to general principles laid down in State legislation. They may resort to indebtedness only as a means of financing investment expenditure. State guarantees on loans contracted for this purpose are not permitted.

In practice the asymmetric decentralization in Italy is constitutionally determined by the law that must be approved by the two rooms in the Italian parliament. Regarding this, it can be seen in detail in Article 116 of the Italian Constitution.

Regional People' Expectation in the Formation of Asymmetric Decentralization on Ius Constituendum Perspective as a solution to Economic Development

Constitutionally, the regulation of asymmetric decentralization conception based on the 1945 Constitution of the Republic of Indonesia (NKRI) is stated in Article 18A as follows:

(1) The relationship of authority between the central government and provincial, district and municipal governments or between provinces and districts and municipalities shall be regulated by law with respect to the specificity and diversity of the regions.

The conception of decentralization that allows further asymmetric decentralization and is specifically addressed in Article 18B, as follows:

The State acknowledges and respects units of local government that are of a special or special nature regulated by law.

States recognize and respect customary law community units as well as their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as governed by law.

Conception as to the above constitution, that is related to asymmetric decentralization as the norm above, according to the author, asymmetric descriptions are only conceived as matters relating to social culture only (an sich). Asymmetric decentralization should also be conceived as a channel for economic development. Theoretically and practically in various countries that embrace asymmetric decentralization not only embrace the concept of asymmetric decentralization, but it is also a protection of law and religious rights. For example, it can be seen the project in research conducted in the State of Philippines that applied asymmetric decentralization to the Mindanauw Muslim Region under the Philippine Constitution.

In addition, asymmetric decentralization should be conceptually conceived, such as asymmetric decentralization associated with economic development. The author's argument lies in the concept that the birth of the autonomous region is nothing but the idea of economic development for the welfare of the people with a focus on the economic values contained in that particular area. The implementation of asymmetric decentralization is not new, asymmetric decentralization has actually occurred in Indonesia in the form of variations of autonomy given to the regions. Currently, there are four forms of regional autonomy, namely special autonomy for Papua (Law No. 21/1999) and Nangroe Aceh Darussalam (Law No. 18/1999 jo Law No. 11/2006), as well as Jakarta's special tactics as the capital city Country (Act No. 29/2007). When some forms of autonomy were carried out simultaneously, asymmetric decentralization took place.

Special Autonomy is as implemented in the Province of Nangroe Aceh Darussalam regulated in Law no. 18/1999 Jo, Law no. 11 year 2006. The establishment of the special autonomy of Nanggroe Aceh Darussalam is inseparable from the Memorandum of Understanding between the Government and the Free Aceh Movement signed on 15 August 2005.

In a budgetary perspective in Aceh's special autonomy, the 20-year bailout amount is equivalent to 2% (two percent) of the National General Allocation Fund and for the sixteenth to twentieth year that is equal to 1% (one percent) of the Fund's ceiling The National General Allocation for the Government of Aceh's budget revenues aimed at financing development, particularly the development and maintenance of infrastructure, the empowerment of the people's economy, poverty alleviation, and education, social and health funding. This is regulated in Law no. 11 of 2006, namely Article 183 (1) on the Special Autonomy Fund as referred to in Article 179 paragraph (2) letter c, which is as follows:

Article 183 (1) The Special Autonomy Fund as referred to in Article 179 paragraph (2) letter c is an acceptance of the Government of Aceh aimed at financing development, particularly the development and maintenance of infrastructure, the empowerment of the people's economy, poverty alleviation, and educational, health. (2) The Special Autonomy Fund as referred to in paragraph (1) shall be valid for a period of 20 years, with details for the first year up to the fifteenth year equal to 2% (two percent) of the National General Allocation Fund ceiling and for the sixth year the twelfth until the twentieth year which is equal to 1% (one percent) of the ceiling of the National General Allocation Fund. (3) The provisions referred to in paragraph (1) shall apply to the Aceh region in accordance with the boundaries of Aceh as referred to in Article 3.

From experience in the implementation of asymmetric decentralization in Indonesia and in various countries as described above, it is proved that asymmetric application is not determined by state form as the argument of some circles opposed to the implementation of asymmetric decentralization in the form of a unitary state.

The reality of the implementation of decentralization also disqualifies the argument of skepticism from some circles related to the unity of the Unitary State of the Republic of Indonesia (NKRI). I argue that the formation of special autonomy will not divide the unity of the Unitary Republic of Indonesia. Indeed, the philosophy of a unitary State is to establish autonomy with the central government's reasoning which grants the authority of that particularity and its control under the control of the central government. It is based on Article 7 of Law no. 23 of 2014 on Regional Governments, as follows:

The Central Government shall conduct guidance and supervision on the implementation of Government Affairs by the Region.

The President holds the final responsibility for the implementation of Government Affairs carried out by the Central and Regional Governments.

Regardless of the skepticism of the application of asymmetric decentralization, the empirical fact in its reality confirms that the area which has been granted special autonomy is still within the corridor of NKRI. In Indonesia, the struggle for regional formation based on asymmetric decentralization does not cease in Aceh, Papua, and Jakarta. In its development, the province of Bali has demanded the enactment of special autonomy. Demands for Special Autonomy for Bali Province can be traced based on DPD Decree RI Number 24/DPD RI/II/2013-2014 About the Draft Law on the proposals of the Special Autonomy initiative for Bali Province at the 8th Plenary Session on 20 December 2013 However, in reality it has not yet been realized. Similarly, the expectations of the people of East Kalimantan are also eligible to be championed as an area of asymmetric decentralization.

Based on that reality, there is no reason to reject the idea that asymmetric decentralization should be fought by the Regional Representative Council of the Republic of Indonesia (DPD RI) as a connector of the tongue and aspirations of the people in the region as its obligation constitutional.

The Role of DPD in Corruption Eradication on Natural Resources Management in the Regions

Implementation of corruption prevention and eradication efforts through the National Strategy for the Corruption Prevention and Eradication (Stranas PPK), PPK Action, and through the implementation of the National Movement of Natural Resources Resource (GNP SDA) of the Minerals and Coal Sector still leaves a lot of homework. Many of the findings and recommendations produced have not been fully acted upon by the Regional Government, Central Government (ESDM, KLHK, Kemenkeu, Kemendagri) and Law Enforcement Officials⁵.

Based on data from the Ministry of Energy and Mineral Resources (ESDM), it is shown that there is a potential loss of non-tax State Receiving State Notes (PNBP) of Directorate General of Mineral and Coal (Minerba) amounting to Rp 26.2 Trillion. As much as Rp 21.85 trillion from only 5 (five) Coal Enterprises Working Enterprises of Coal Mining (PKP2B) Generation I period of 2008 to 2012; amounting to Rp 296.7 Billion from 57 companies PKP2B; amounting to 280.15 Billion from 28 Kangzen Kenko Enterprises; and 3.8 T from 3003 Mining Companies holding Mining Business License (IUP). For these receivables, collection has been made but not yet paid by the Mining Company. In

5. The Natural Resource Anti-Mafia Coalition, It's Time to Work on Saving Natural Resources!, Policy Brief. Page 3.

Kalimantan, Central Sulawesi and Southeast Sulawesi there are 3419 Mining IUPs that have PNPB arrears from fixed contribution payments (2013 to 2015) to 943 billion rupiah⁶. In fact, according to Publish What You Pay (PWYP) Indonesia recorded there are tainted money flow in Indonesia in 2014 which amounted to Rp. 227.7 trillion, equivalent to 11.7% of the total State Budget Adjustment (APBN-P) Year 2014. Illegal cash flow in the mining sector in 2014 is estimated to reach Rp. 23.89 trillion, of which Rp. 21.33 trillion is estimated to come from a miss-invoicing trade and of which Rp. 2.56 trillion comes from a hot money narrow⁷.

DPD should understand itself as a regional people representative throughout Indonesia that has a strong legitimacy base to encourage efforts of eradicating corruption for a faster progress. The DPD seems to be lulled by the issue of the perceived authority that has not been widespread enough so that the lunge and its contribution in the eradication of corruption cannot be felt by the wider community. It can be said that the role of DPD in eradicating corruption in regions related to natural resource management has not been seen. In fact, corruption is an effort to impoverish people in areas that should get the main focus of the handling and eradication since corruption itself in the country of Indonesia razed quite badly.

With the construction of systemic, endemic and widespread corruption arguments, DPD RI, as a regional representation, should have been rushed to eradicate corruption, but the gap has become as a momentum for the DPD itself to become a viral reality in the region. In addition, it is a constitutional obligation of DPD RI based on the 1945 Constitution of the Republic of Indonesia (UUD NRI) in Article 22 D Paragraph (3) which stipulates that DPD shall supervise the implementation of Law concerning the management of natural resources and other economic resources.

Strengthening the Absorption of Regional Economic Development by DPD through Monitoring and Evaluation of Ranperda and Perda on APBD

After the decision of the Constitutional Court No. 56/PUU/XIV/2016 related to the cancellation of the executive review into a judicial review to the Supreme Court, the *rechtspraak* has occurred in relation to the authority and evaluation of the Regional Regulation deviating from the interests of national development based on the law.

The enactment of the Law of the Republic of Indonesia Number 2 Year 2018 on the Second Amendment to Law Number 17 Year 2014 concerning the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representative Council and the Regional Representative Council, is a new reality in the practice of state administration in Indonesia by conducting strengthening of DPD through Article 249 Ayata (1) letter j stipulates that DPD conducts monitoring and evaluation on the draft of local regulation (Ranperda) and regional regulation (Persda).

Such norms should be viewed as a momentum for DPD RI to synchronize the development between the central and regional levels through the new authority, in particular the monitoring and evaluation of the Regional Budget (APBD) to absorb and control the people's aspirations for the interests of economic development. It is also a strengthening for DPD RI in the region. Apart from the new authority of DPD RI which is debatable, as set forth in article 249 a quo, which is clear with the new authority, it is expected that the role of DPD is more optimal in the region to articulate the aspirations of the regional people, the purpose of equitable development, and synchronization of national and regional development.

In addition, with the new authority, the momentum of DPD RI should be better known by more settled in the area to conduct monitoring and evaluation, especially related to the Regional Budget Law. The authority is not only a formality and ornament for the lips that gave birth to a conflict of interest, because the logical consequence is with the increase of authority, the state budget necessarily for the benefit of DPD RI in the region also increases. Meanwhile, the form of economic development movement in the region today since the presence of DPD as a regional representation has not been felt. Most of the people in 34 provinces are skeptical of the presence of the DPD in articulating their aspirations as illustrated in the previous description. Thus, the authority should have become a

6. The Natural Resource Anti-Mafia Coalition, *It's Time to Work on Saving Natural Resources!*, Policy Brief. P. 8

7. The Natural Resource Anti-Mafia Coalition, *It's Time to Work on Saving Natural Resources!*, Policy Brief. P. 9

momentum for DPD RI to build public trust and its image in the region, rather than encouraging the increase of authority. That, in fact there is no symmetrical between the principle and its performance in fighting for the interests of the people in the region.

IV. CONCLUSION

People in every region are the elements that absolutely determine the establishment of a country. Development in the countries must be started from the people in the region, as the main element that became the source of development and progress for the country. Therefore, in Indonesia, the specialized agencies tasked with carrying out development in the regions are formed, as a channel for the aspirations of the people. This paper reveals that the position of the Regional Representative Council (DPD), as one of the institutions in charge of channeling the aspirations of society, especially in the development of the economy, has not been symmetrical with the provisions of the state line. Even the results of the paper confirm that DPD needs to be firmly affirmed to be involved in connecting people's aspirations in the regions, with regard to economic development needs. Society is not a human being who must be abandoned, whose existence becomes an important element in the territory of a great government. The people, inevitably rejected, should receive special attention seriously from the government in order to live a prosperous life. Developments in every sector of the community's livelihood must be undertaken by the state.

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